

Application No. 10/510,119
Paper Dated June 6, 2007
In Reply to USPTO Correspondence Dated April 6, 2007
Attorney Docket No. 0470-045183

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/510,119 Confirmation No. 4799
Applicants : **Linda Diehl et al.**
Filed : October 4, 2004
Title : **INDUCTION OF ANTI-TUMOR CTI IMMUNITY THROUGH
IN VIVO TRIGGERING OF 4-1BB AND/OR CD40**
Group Art Unit : 1644
Examiner : Phillip Gambel
Customer No. : 28289

ELECTION WITH TRAVERSE

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action, dated April 6, 2007, issued by the Examiner in connection with the above-referenced application. A one-month Petition for an Extension of Time, extending the deadline for response until June 6, 2007 is submitted herewith. In view of the following remarks, reconsideration of the Restriction Requirement is respectfully requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 6, 2007.

Kay E. Yetter

(Name of Person Mailing Paper)

Kay E. Yetter
Signature

06/06/2007

Date

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In the Office Action, the Examiner requires restriction under 35 U.S.C. § 121 between the following allegedly distinct species:

- A) treating a tumor (claims 13-25); and
- B) treating an infectious agent (claims 13-21 and 26).

The Examiner asserts that the species listed above do not relate to a single general inventive concept. The Examiner further asserts that no claims are generic.

Applicants hereby elect species A, treating a tumor, with traverse. Claims 13-25 are readable on species A.

Applicants respectfully disagree with the Examiner's position that no claim is generic. Claim 13 is generic in the sense that the administration of the anti-CD40 antibody or fragment thereof is to induce systemic T cell immunity, and the antigens against which systemic T cell immunity is induced are those of either tumor(s) or infectious agent(s). Despite the preamble of the claim, claim 13 is not directed to treating two separate medical indications.

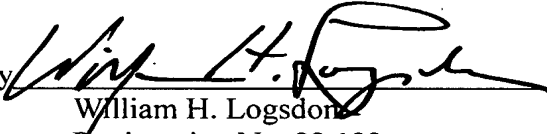
Applicants note that restriction between the allegedly distinct species is improper. A search directed to either species A or B would clearly overlap. Such coextensive searching would not present any undue burden on the Examiner for examination of all of the claims.

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In view of the above remarks, withdrawal of the Restriction Requirement is respectfully solicited.

Respectfully submitted,

THE WEBB LAW FIRM

By 

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